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DEPARTMENT OF STATE

22 CFR Part 171

[Public Notice: 8870]

RIN 1400-AD65

Privacy Act; STATE-78, Risk Analysis and Management Records

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State is issuing a final rule to amend its Privacy Act regulation exempting portions of a system of records from certain provisions of the Privacy Act of 1974. Certain portions of the Risk Analysis and Management (RAM) Records, State-78, system of records contain criminal investigation records, investigatory material for law enforcement purposes, confidential source information and are proposed to be exempted under the Privacy Act.

**DATES:** This final rule is effective [*INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** John Hackett, Acting Director; Office of Information Programs and Services, A/GIS/IPS;

Department of State, SA-2; 515 22nd Street NW; Washington, DC 20522-8001, or at Privacy@state.gov.

**SUPPLEMENTARY INFORMATION:** The system, Risk Analysis and Management (RAM) Records, designated as State-78, supports the vetting of directors, officers, or other employees of organizations who apply for Department of State contracts, grants, cooperative agreements, or other funding. The information collected from these organizations and individuals is specifically used to conduct screening to ensure that Department funds are not used to provide support to entities or individuals deemed to be a risk to U.S. national security interests. The records may contain criminal investigation records, investigatory material for law enforcement purposes, and confidential source information. (The information collection was approved under OMB Control Number 1405-0204, expiration April 30, 2015.)

The Department of State is issuing this document to amend 22 CFR part 171 to exempt portions of the Risk Analysis and Management Records system of records from the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), to the extent to which they meet the criteria of section (j)(2); and from subsections (c)(3);(d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act pursuant

to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5). Consistent with the Privacy Act (5 U.S.C. 552a(k)), 22 CFR 171.36(b)(1), (2), and (5) provide concise general statements on the reasoning behind taking exemptions (k)(1), (k)(2), and (k)(5), respectively, for the Department systems for which those exemptions are taken. For ease of reference, these statements of reasoning are restated here: STATE-78 is exempted under (k)(1) in order to protect material required to be kept secret in the interest of national defense and foreign policy. STATE-78 is exempted under (k)(2) in order to prevent individuals that are the subject of investigation from frustrating the investigatory process, to ensure the proper functioning and integrity of law enforcement activities, to prevent disclosure of investigative techniques, to maintain the confidence of foreign governments in the integrity of the procedures under which privileged or confidential information may be provided, and to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel. STATE-78 is exempted under (k)(5) in order to ensure the proper functioning of the investigatory process, to ensure effective determination of suitability, eligibility, and qualification for employment and to protect the confidentiality of sources of information.

This action was previously published in a Notice of Proposed Rulemaking (76 FR 76103) and a Notice of Intent to Create a System of Records (76 FR 76215). One comment was received by a member of the public who voiced a criticism of an analogous risk assessment program run by USAID. The commenter was advised that the Department's risk assessment program operates separately from USAID's program. The commenter had nothing further to add.

#### **List of Subjects in 22 CFR Part 171**

Privacy.

For the reasons stated in the preamble, 22 CFR part 171 is amended as follows:

#### **PART 171-[AMENDED]**

1. The authority citation for part 171 is revised to read as follows:

Authority: 5 U.S.C. 552, 552a; 22 U.S.C. 2651a; Pub. L. 95–521, 92 Stat. 1824, as amended; E.O. 13526, 75 FR 707; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

2. Section 171.36 is amended by:

- a. Revising paragraph (a)(2); and

b. Adding an entry, in alphabetical order, for “Risk Analysis and Management Records. STATE-78.” to the lists in paragraphs (b)(1), (2), and (5).

The revision reads as follows:

§ 171.36 Exemptions.

\* \* \* \* \*

(a) \* \* \*

(2) The systems of records maintained by the Bureau of Diplomatic Security (STATE-36), the Office of the Inspector General (STATE-53), the Information Access Program Records system (STATE-35), and the Bureau of Administration (STATE-78) are subject to general exemption under 5 U.S.C. 552a(j)(2). All records contained in record system STATE-36, Security Records, and all records contained the Risk Analysis and Management Records system (STATE-78), are exempt from all provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent to which they meet the criteria of section (j)(2). These exemptions are necessary to ensure the effectiveness of the investigative, judicial, and protective processes. All records contained in STATE-53, records of the Inspector General and Automated Individual Cross-Reference System,

are exempt from all of the provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent to which they meet the criteria of section (j)(2).

These exemptions are necessary to ensure the proper functions of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to prevent interference with the enforcement of criminal laws, to avoid the disclosure of investigative techniques, to avoid the endangering of the life and safety of any individual, to avoid premature disclosure of the knowledge of potential criminal activity and the evidentiary bases of possible enforcement actions, and to maintain the integrity of the law enforcement process. All records contained in the Information Access Program Records system (STATE-35) are exempt from all of the provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent to which they meet the criteria of section (j)(2). These exemptions are necessary to ensure the protection of law enforcement information retrieved from various sources in response to information access requests.

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Joyce A. Barr,  
Assistant Secretary for Administration,  
U.S. Department of State.

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